

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

EVELYN STOKES,

Plaintiff,

Case No. 2:23-cv-12738

HONORABLE STEPHEN J. MURPHY, III

v.

BLUE CROSS BLUE SHIELD OF  
MICHIGAN,

Defendant.

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**ORDER ADOPTING  
REPORT AND RECOMMENDATION [22] AND  
DENYING DEFENDANT’S MOTION TO DISMISS [7]**

Plaintiff Evelyn Stokes sued her former employer, Defendant Blue Cross Blue Shield of Michigan, and alleged violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, Michigan’s Elliott-Larsen Civil Rights Act, Mich. Comp. L. § 37.2101, *et seq.*, the Family Medical Leave Act, 29 U.S.C. § 2601, *et seq.*, the Americans with Disabilities Amendments Act, 42 U.S.C. § 1201, *et seq.*, and Michigan’s Person’s with Disabilities Civil Rights Act, Mich. Comp. L. § 37.101, *et seq.* ECF 1. Blue Cross moved to dismiss the complaint under Civil Rule 12(b)(1) and argued that this Court lacks jurisdiction over Stokes’s claims because they involve “issues as to which an arbitration agreement has been signed.” ECF 7, PgID 48.<sup>1</sup>

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<sup>1</sup> “A party’s failure to pursue arbitration in spite of a compulsory arbitration provision means that the party has failed to state a claim,” and “a motion to dismiss on such grounds is ‘properly construed as a motion . . . under Rule 12(b)(6).’” *Knight v. Idea Buyer, LLC*, 723 F. App’x 300, 301 (6th Cir. 2018) (quotation omitted).

The Court referred the case to Chief Magistrate Judge David R. Grand for all pretrial matters, and the parties fully briefed the motion to dismiss. ECF 3; 10; 11. After a hearing, the magistrate judge issued a Report and Recommendation suggesting that the Court deny Blue Cross's motion without prejudice. ECF 22.

De novo review of the magistrate judge's findings is required only if the parties "serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2). Because neither party filed objections, de novo review of the Report's conclusions is not required. After reviewing the record, the Court determines that the magistrate judge's conclusions are legally sound. Accordingly, the Court will adopt the Report's findings and deny Blue Cross's motion to dismiss without prejudice.

**WHEREFORE**, it is hereby **ORDERED** that the magistrate judge's Report and Recommendation [22] is **ADOPTED**.

**IT IS FURTHER ORDERED** that Defendant Blue Cross's Motion to Dismiss [7] is **DENIED WITHOUT PREJUDICE**.

**SO ORDERED.**

s/ Stephen J. Murphy, III  
STEPHEN J. MURPHY, III  
United States District Judge

Dated: September 17, 2024